

## Senate Bill No. 170

### CHAPTER 310

An act to repeal and add Chapter 3 (commencing with Section 17750) of Part 3 of Division 7 of the Business and Professions Code, relating to business.

[Approved by Governor August 18, 1997. Filed with  
Secretary of State August 18, 1997.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 170, Lewis. Trading stamp companies.

(1) Existing law contains provisions with respect to the regulation of trading stamp companies, including a requirement that a corporation obtain a license from the Commissioner of Corporations to engage in business as a trading stamp company.

This bill would repeal these provisions and enact other provisions governing trading stamp companies and the issuance and redemption of trading stamps. The bill would provide that a willful violation of these provisions is a crime, thereby imposing a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Chapter 3 (commencing with Section 17750) of Part 3 of Division 7 of the Business and Professions Code is repealed.

SEC. 2. Chapter 3 (commencing with Section 17750) is added to Part 3 of Division 7 of the Business and Professions Code, to read:

#### CHAPTER 3. TRADING STAMP COMPANY ACT

17750. "Trading stamp" means any stamp or similar device issued in connection with the retail sale of merchandise or service, as a cash discount, or for any other marketing purpose, that entitles the rightful holder, on its due presentation for redemption, to receive merchandise, service, or cash.

17751. "Trading stamp" also means any stamp or similar device issued as a gift or as a consideration in any transaction other than in connection with the retail sale of merchandise or service, by a trading

stamp company that also issues those devices in connection with the retail sale of merchandise or service, as a cash discount, or for any other marketing purpose, and that may be redeemed by the rightful holder on the same basis as, or interchangeably with, any trading stamp issued as described in Section 17750.

17752. “Trading stamp” does not include any redeemable device used by the manufacturer or packer of an article, in advertising or selling the article, or any redeemable device issued and redeemed by a newspaper, magazine, or other publication.

17753. “Trading stamp” does not include any coupon, ticket, certificate, card, or other similar device prepared by a merchant using that device and distributed by the merchant to his or her customers, if the device is redeemable only by that merchant for, or in connection with, the purchase of specific articles of merchandise carried in his or her stock.

17754. The Legislature finds and declares that the devices described in Sections 17752, 17753, and 17760 are not employed in connection with improper activities of irresponsible trading stamp companies.

17755. “Trading stamp company” means any person engaged in any manner in distributing trading stamps for retail issuance by others or in redeeming trading stamps for retailers.

17756. “Person” means any individual, partnership, corporation, limited liability company, association, or other organization.

17757. “Organization” means any partnership, corporation, limited liability company, or association.

17758. “Issue” includes use, distribute, give away, sell, furnish, and licensing that use, distribution, gift, sale or furnishing.

17759. “Merchant” includes retailer, person dealing in services, or person in a similar capacity.

17760. The provisions of this chapter do not apply to nonprofit merchant organizations that guarantee redemption of trading stamps that are exclusively issued and redeemed by that organization or its members and where all of those members have jointly and severally assumed liability for all stamps so issued and where the redemption is from stock in trade of, or in cash from, any and all members of the organization. The assumption of liability shall be evidenced by a written agreement between the organization and its members setting forth the joint and several liability of the organization and its members for redemption of trading stamps issued by the organization.

17761. It is unlawful for any person to issue any trading stamp unless the stamp has imprinted on it both of the following:

(a) The name of the trading stamp company that is responsible for the redemption of the stamp.

(b) The redeemable value of the stamp in cents, mills, or fraction of cents.

17762. Any trading stamp company shall redeem upon presentation any trading stamp that it has issued, either in merchandise, service, or cash, at the option of the rightful holder. However, if the trading stamp company only offers to redeem the trading stamp in cash, the rightful holder of the trading stamp shall not have that option and shall only receive a cash redemption. Trading stamps shall only be presented for redemption in cash in an amount aggregating not less than one dollar (\$1).

17763. It is unlawful for any person to willfully issue or redeem any trading stamp without the consent of the trading stamp company that issued the stamp.

17764. Nothing in this chapter shall prohibit any person from redeeming, pursuant to contract, any trading stamps issued on or before December 31, 1997.

17765. Any person who advertises the giving of trading stamps, or who gives trading stamps, with the sale of any merchandise or service, shall give those stamps, if the purchaser requests them, with the sale of all items of merchandise or service offered for sale at his or her place of business, unless that person advertises that he or she does not give trading stamps on certain items of merchandise or service and designates those items or services in the advertisement or posts a list of those items or services in a conspicuous place in his or her place of business.

17766. Nothing in this chapter shall be construed as requiring the giving of trading stamps with any sale of merchandise or service when the giving of those stamps or any premium with the particular merchandise or service is specifically prohibited by law or regulation.

17767. If a trading stamp company fails to redeem any of its trading stamps, any rightful holder of those stamps may bring a civil action for damages within three years of the failure to redeem.

17768. Any merchant who has issued to his or her customers or other persons the trading stamps of any trading stamp company subject to this chapter, and who proposes to discontinue the issuance of the stamps of that company for any reason, shall post a notice in at least 18-point type at every location in his or her establishment where stamps were or are issued, containing at least the following information:

(a) The fact that trading stamps will no longer be issued by the merchant and the date of discontinuance of issuance.

(b) The name and address in this state of the trading stamp company that is responsible for the redemption of those stamps.

(c) The fact that the stamps are redeemable either in merchandise, service, or in cash, at the option of the holder, and stating the cash redemption value of each stamp, and that it is necessary for the holder to present stamps in an amount aggregating not less than one dollar (\$1) for redemption in cash.

(d) The notice required by this section shall be posted at least seven days prior to the date on which the issuance of trading stamps is discontinued, and shall remain posted for 30 days after that date.

17769. No trading stamp company shall cease issuing trading stamps unless it gives written notice at least 90 days prior to that cessation to each merchant that has at any time within one year issued trading stamps that the company is obligated to redeem.

17770. Any person violating any provision of this chapter shall be liable for a civil penalty not to exceed one thousand dollars (\$1,000) for each violation, and any superior court of this state shall have jurisdiction in equity on the complaint of any interested person to restrain and enjoin the violation of any of the provisions of this chapter.

17771. Any person who willfully violates any provision of this chapter shall upon conviction be fined not more than five thousand dollars (\$5,000).

17772. Trading stamps issued by a trading stamp company subject to this chapter are exempt from the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code).

17773. Nothing in this chapter, nor in this code, shall be construed to require that the cash or merchandise value of trading stamps be stated or set forth on any sign, statement, or other advertising media that either advertises or offers those stamps, or advertises or indicates the price of gasoline or motor fuel, whether on any dispensing apparatus or elsewhere, and that is displayed at or about any place of business offering for sale or selling gasoline or other motor vehicle fuel.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

